

REMARKS

As indicated in the Office communication mailed on May 11, 2004, the petition to make special of the present application under the provisions of 37 C.F.R. § 1.102(d) and M.P.E.P § 708.01(H) was granted. Applicants wish to thank Examiner Kemmerer for prompt action on this application. In addition, Applicants wish to maintain the special status of the present application in the future prosecution.

Claims 81-91 are pending in the present application. Applicants respectfully submit that claims 46-49 have been canceled previously, rather than pending as noted in the Office Action. The Office Action requested restriction of the claims to one of three patentably distinct inventions, namely, Group I (claims 81-83, 85, and 87-91 (in part)), drawn to nucleic acids of SEQ ID NOS: 40 or 42, or nucleic acids encoding proteins pertaining to SEQ ID NOS: 39 or 9, and host cells comprising the same; Group II (claims 84, 87-91 (in part)), drawn to nucleic acid comprising two non-overlapping fragments of SEQ ID NO: 40 and host cells comprising the same; and Group III (claims 86 and 97-91 (in part)), drawn to nucleic acid encoding a protein comprising SEQ ID NO: 27 and host cells comprising the same.

In response to the requirement for restriction, Applicants provisionally elect with traverse the claims of Group I, namely, claims 81-83, 85, and 87-91 (in part). In addition, Applicants respectfully request reconsideration to recombine Groups I-III.

Applicants respectfully submit that Groups I-III claims are related in subject matter. The sequences recited in Group I, II, and III claims are related and overlapping. For example, the nucleic acid sequence recited in Group II claims include the nucleic acid sequences recited in Group I claims. The amino acid sequences recited in Group I and Group II claims include the amino acid sequence recited in Group III claims. In fact, as indicated in the Office Action, Group I, II, and III claims are classified as belonging to the same class: 536. Furthermore, Groups II and III claims are classified as belonging to the same subclass: 23.1. Therefore, a search for art relating to the claims of one Group will reveal art, if any, relating to the other Groups. Accordingly, Applicants respectfully submit that examination of all the pending claims, namely claims 81-91, would not impose an undue burden on the Examiner.

CONCLUSION

Claims 81-91 are presently pending in this application. Claims 81-83, 85, and 87-91 (in part) are provisionally elected for consideration. The Examiner is invited to contact the undersigned with any questions about this paper. Early and favorable action is respectfully solicited.

Date: July 29, 2004
Reg. No. 51,551

Tel. No.: (617) 310-8389
Fax No.: (617) 248-7100

3096933

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Fangli Chen', written over a horizontal line.

Fangli Chen
Agent for Applicants
Testa, Hurwitz & Thibault, LLP
High Street Tower, 125 High Street
Boston, MA 02110